

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

KENNETH AND PAMELA PRICE JEAN,

Plaintiffs

v.

TOWN OF ASHBURNHAM POLICE
DEPARTMENT, TOWN OF WINCHENDON
POLICE DEPARTMENT, ROB HARRINGTON,
in his capacity as CHIEF OF THE WINCHENDON
POLICE DEPARTMENT, JACK MURRAY, in
his capacity as CHIEF OF THE ASHBURNHAM
POLICE DEPARTMENT, TODD C. PARSONS,
RAYMOND M. ANAIR, ROBERT BRENNAN,
WILLIAM P. GEOFFROY, BRIAN HART,
KEVIN AHEARN, and KEVIN E. WOLSKI,

Defendants

CIVIL ACTION NO. 03-12306-FDS

ATTORNEY AFFIDAVIT FOR FEE AWARD PURSUANT TO COURT ORDER

The undersigned hereby swears, affirms and states as follows:

1. I, John J. Cloherty III, am attorney of record for the Defendant, Town of Ashburnham, as well as for the Ashburnham Police Officers Chief Jack Murray, Todd Parsons, Robert Brennan, Brian Hart and Kevin Ahearn.
2. Pursuant to this Court's Order I hereby submit the following "affidavit detailing their reasonable attorneys' fees and expenses in opposing the motions for reconsideration." See Jean v. Ashburnham, U.S.D.C. C.A. No. 03-12306-FDS, Memo. and Order on Pl.s' Mot. for Reconsideration, Saylor J., dtd. Aug. 10, 2006, p. 3.
3. A review of my firm's billing software reveals that in opposition to the Plaintiffs' Motions for Reconsideration, I billed a total of **1.2 hours** dedicated to opposing the Plaintiffs'

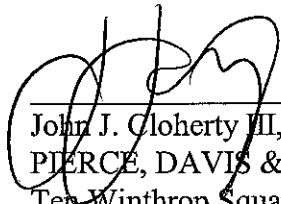
Motions between the dates of June 22, 2006 and the receipt of the court's decision on August 10, 2006.

4. This 1.2 hours of time was expended in the review and analysis of the Plaintiffs' Motions, communicating with Co-Defendant's counsel and Co-Counsel concerning strategy for oppositions to the Motions, and reviewing and formalizing the oppositions to the Motions as drafted by Co-Counsel prior to filing.
5. To determine an appropriate attorneys' fee award, the First Circuit has adopted what is known as the "lodestar" approach. Gay Officers Action League v. Commonwealth of Puerto Rico, 247 F.3d 288, 295 (1st Cir. 2001). The lodestar approach is a starting point to accurately determine an appropriate award of attorneys' fees and uses the reasonable number of hours expended on the litigation and multiplies that number of hours by a reasonable hourly rate. Id. The first step of the lodestar analysis requires an evaluation of the reasonable hourly rate charged by plaintiffs' attorneys. Id. This court needs to consider the "prevailing rates in the community (taking into account the qualifications, experience, and specialized competence of the attorneys involved)." Id.
6. By way of background, I am a Partner at the downtown Boston litigation firm of Pierce, Davis & Perritano, LLP. We are one of the premier municipal law firms in the Commonwealth of Massachusetts, with 18 attorneys and a partnership with over 90 years of litigation and trial experience. I am admitted to practice in the federal and state courts in Massachusetts and Rhode Island, as well as the First Circuit Court of Appeals and the U.S. Supreme Court. As a former State Public Defender, Assistant Corporation Counsel, and now a Partner in a private practice, I have tried numerous cases in both federal and state courts

in both Massachusetts and Rhode Island. My current practice focuses on complex litigation involving municipal clients to include civil rights litigation, employment litigation, wrongful death, contractual disputes, and accounting malpractice. Many of the cases I have defended have resulted in reported decisions. See, e.g., Doe v. East Greenwich Sch. Dept., 899 A.2d 1258 (R.I. 2006); McNiff v. Dracut, 433 F. Supp. 2d 145 (D. Mass. 2006); Lacava v. Lucander, 791 N.E.2d 358 (Mass. App. Ct.2003); Mullin v. Town of Fairhaven, 284 F.3d 31 (1st Cir. 2002); Collins v. Nuzzo, 244 F.3d 246 (1st Cir. 2001); Rogan v. Menino, 175 F.3d 75 (1st Cir. 1999); Burnham v. City of Salem, 101 F.Supp.2d 26 (D. Mass. 2000); Standifird v. Town of Boxborough, 84 F.Supp.2d 213 (D. Mass. 2000); aff'd 230 F.3d 1347 (1st Cir. 2000). In addition to my litigation practice, I am a frequent lecturer for the Massachusetts Continuing Legal Education, Inc., having served as a panelist together with various members of the federal bench for the annual seminar entitled "Trying Your First (or Next) Civil Case in Federal Court" for the past four years.

7. Based upon my qualifications, experience, and specialized competence in representing municipalities in civil rights litigation, and my knowledge of the prevailing rates for similarly qualified attorneys working in downtown Boston, I am requesting a lodestar rate in the range of **\$275 to \$325 per hour**.
8. Using this lodestar rate and the 1.2 hours expending in opposition to the Plaintiffs' Motions for Reconsideration, I hereby request an award of fees in the range of **\$330 to \$390**.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 8th DAY OF
SEPTEMBER, 2006.



John J. Cloherty III, BBO #566522
PIERCE, DAVIS & PERRITANO, LLP
Ten Winthrop Square
Boston, MA 02110
(617) 350-0950

CERTIFICATE OF SERVICE

I hereby certify that on this day a true copy of the
above document was served upon each attorney of
record, or pro se litigant, by electronic filing.

9/8/06

Date

